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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,811	12/04/2000	Brant Candelore	80398.P311	9260

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EXAMINER
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CHUNG, JASON J

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 01/12/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/729,811

Applicant(s)

CANDELORE ET AL.

Examiner

Jason J. Chung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 1-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-3, 5-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention is an abstract idea that is not in the technological arts.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 6, 9, 10, 11, 15, 18, 19, 20, 24, 27, 28, 29, 33, 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Wugofski (US 2003/0056216 A1).

Regarding claim 1, Wugofski discloses the system disclosed uses a integrated personal computer and television system (page 2, paragraph [0021]). Wugofski discloses the favorites lists are organized with the user's actual usage of the system (page 4, paragraph [0045]). Wugofski discloses the contents of a favorites list are based on the user's actual usage of a computer system and the most frequently used channels are stored in a favorite channel list for a

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user (page 1, paragraphs [0010-0011]), which meets the limitation on detecting a tuning event and maintaining relative statistics on one or more items related to the tuning event.

Wugofski discloses a usage based favorites lists (page 4, paragraphs [0044-0045]).

Wugofski discloses the user does not have to create and update the favorites lists manually because the lists are created and updated automatically by the system (page 1, paragraph [0011]), which meets the limitation on creating automatically a list of favorites based on the maintained relative statistics.

Regarding claim 2, Wugofski discloses the system uses a usage based favorites list and the system monitors actual usage of the system generating a list of the channels most watched (page 4, paragraph [0044]), which meets the limitation on detecting a selected channel or program.

Regarding claim 6, Wugofski discloses a usage based favorites lists that is automatically created and updated based on usage (page 4, paragraphs [0044-0045]). Wugofski discloses the user does not have to create and update the favorites lists manually because the lists are created and updated automatically by the system (page 1, paragraph [0011]); the automatically updating of the list meets the limitation on the list of favorites is modified using a changing time scale as the list matures.

Regarding claim 9, Wugofski discloses the system uses a usage based favorite list that has channel most watched (page 4, paragraph [0044]) and in addition, the user can have favorites organized by themes (page 4, paragraph [0045]), which meets the limitation on one or more items include a channel item or a theme item.

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Regarding claims 10, 11, 15, and 18 the limitations in claims 10, 11, 15, and 18 have been met in claims 1, 2, 6 and 9 rejections.

Regarding claims 19, 20, 24, and 27 the limitations in claims 19, 20, 24, and 27 have been met in claims 1, 2, 6, and 9 rejections.

Regarding claims 28, 29, 33, and 36 the limitations in claims 28, 29, 33, and 36 have been met in claims 1, 2, 6, and 9 rejections. Wugofski discloses a monitor 112 (page 2, paragraph [0022]; figure 1), which meets the limitation on display.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 7, 10, 16, 19, 25, 28, 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Lawler (US Patent # 5,758,259).

Regarding claim 1, Lawler discloses the system identifies characteristics of the programming the viewer selects or receives and the viewer preferences database represents a viewing history (column 5, line 52-column 6, line 21); the viewing history meets the limitation on detecting a tuning event.

Lawler discloses the viewer has preferences for programming and the characteristics of the programming include names of directors, actors, and genre (column 2, lines 10-19). Lawler discloses the viewer is provided an IT system with a programming guide that is automatically

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personalized based on the viewing history of the viewer (column 2, lines 31-37), which meets the limitation on maintaining relative statistics on one or more items related to the tuning event and creating automatically a list of favorites based on the maintained relative statistics.

Regarding claim 7, Lawler discloses the counts for each criterion has a maximum number and the least recent value is dropped with the addition of the new value (column 7, lines 5-44), which meets the limitation on preventing rollover of a count value.

Regarding claims 10, 16, the limitations in claims 10, 16 have been met in claim 1, 7 rejections.

Regarding claims 19, 25, the limitations in claims 19, 25 have been met in claim 1, 7 rejections.

Regarding claims 28, 34, the limitations in claims 28, 34 have been met in claim 1, 7 rejections. Lawler discloses a display (column 5, lines 20-30).

4. Claims 1, 10, 19, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Wehmeyer (US Patent # 5,867,226).

Regarding claim 1, Wehmeyer discloses the program guide is created to predict programs which may be of interest to the user (column 1, lines 40-53). Wehmeyer discloses the routine for automatic generation is shown in figure 5 and the list is displayed to the user (column 4, line 63-column 5, line 6). Wehmeyer discloses the predictive agent list is generated based on the user's viewing history (column 2, lines 33-56), which meets the limitation on detecting a tuning event, maintaining relative statistics on one or more items related to the tuning event and creating automatically a list of favorites based on the maintained relative statistics.

Regarding claim 10, the limitations in claim 10 have been met in claim 1 rejection.

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Regarding claim 19, the limitations in claim 19 have been met in claim 1 rejection.

Regarding claim 28, the limitations in claim 28 have been met in claim 1 rejection.

Wehmeyer discloses a display (column 2, lines 10-32; figure 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 12, 21, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski in view of Perlman (US Patent # 5,583,576).

Regarding claim 3, as disclosed in claim 1 rejection, Wugofski discloses the list of favorites.

Wugofski fails to disclose consecutive weekly programs. Perlman discloses the EPG data includes weekly series (column 4, lines 31-44). Perlman discloses the television schedule information may represent more than one week (column 10, lines 21-26). Perlman discloses the EPG may be a weekly program schedule (column 9, line 65-column 10, line 12), which meets the limitation on a schedule listing consecutive weekly programs separated by time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wugofski to have the EPG display consecutive weekly programs as taught by Perlman so the user can see if the weekly programs scheduled in the future are shown at the same normal broadcast time the following week.

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Regarding claims 12, 21, 30, the limitations in claims 12, 21, and 30 have been met in claim 3 rejections.

6. Claims 3, 12, 21, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Perlman (US Patent # 5,583,576).

Regarding claim 3, as disclosed in claim 1 rejection, Lawler discloses the list of favorites.

Lawler fails to disclose consecutive weekly programs. Perlman discloses the EPG data includes weekly series (column 4, lines 31-44). Perlman discloses the television schedule information may represent more than one week (column 10, lines 21-26). Perlman discloses the EPG may be a weekly program schedule (column 9, line 65-column 10, line 12), which meets the limitation on a schedule listing consecutive weekly programs separated by time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler to have the EPG display consecutive weekly programs as taught by Perlman so the user can see if the weekly programs scheduled in the future are shown at the same normal broadcast time the following week.

Regarding claims 12, 21, 30, the limitations in claims 12, 21, and 30 have been met in claim 3 rejections.

7. Claims 3, 12, 21, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wehmeyer in view of Perlman (US Patent # 5,583,576).

Regarding claim 3, as disclosed in claim 1 rejection, Wehmeyer discloses the list of favorites.

Wehmeyer fails to disclose consecutive weekly programs. Perlman discloses the EPG data includes weekly series (column 4, lines 31-44). Perlman discloses the television schedule



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information may represent more than one week (column 10, lines 21-26). Perlman discloses the EPG may be a weekly program schedule (column 9, line 65-column 10, line 12), which meets the limitation on a schedule listing consecutive weekly programs separated by time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wehmeyer to have the EPG display consecutive weekly programs as taught by Perlman so the user can see if the weekly programs scheduled in the future are shown at the same normal broadcast time the following week.

Regarding claims 12, 21, 30, the limitations in claims 12, 21, and 30 have been met in claim 3 rejections.

8. Claims 4, 13, 22, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wehmeyer in view of Levitan (US Patent # 5,534,911).

Regarding claim 4, as disclosed in claim 1 rejection, Wehmeyer disclose the list of favorites.

Wehmeyer fails to disclose auto tuning without user interaction. Levitan discloses when a program is scheduled for transmission, the customer profile makes a choice before the program is transmitted by using a customer profile (column 2, lines 57-67). Levitan discloses an automatic personal channel (column 3, lines 36-59). Levitan discloses the personal channel has the best programs selected from a plurality of channel and recorded programs (column 3, line 60-column 4, line 3). Levitan discloses the automatic personal channel switches the channel selector at the proper time to the program (column 1, lines 45-54). Levitan discloses the automatic personal channel is always presenting the best available program (column 1, line 64-column 2, line 20), which meets the limitation on autotuning without user interaction. Levitan

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discloses it would be advantageous to pass the time and stress of choice to the computer (column 1, lines 30-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wehmeyer to have an automatic tuner without user interaction as taught by Levitan in order to provide the time and stress of choice of available programs to the computer.

Regarding claims 13, 22, 31, the limitations in claims 13, 22, 31 have been met in claim 4 rejections.

9. Claims 4, 13, 22, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski in view of Levitan (US Patent # 5,534,911).

Regarding claim 4, as disclosed in claim 1 rejection, Wugofski disclose the list of favorites.

Wugofski fails to disclose auto tuning without user interaction. Levitan discloses when a program is scheduled for transmission, the customer profile makes a choice before the program is transmitted by using a customer profile (column 2, lines 57-67). Levitan discloses an automatic personal channel (column 3, lines 36-59). Levitan discloses the personal channel has the best programs selected from a plurality of channel and recorded programs (column 3, line 60-column 4, line 3). Levitan discloses the automatic personal channel switches the channel selector at the proper time to the program (column 1, lines 45-54). Levitan discloses the automatic personal channel is always presenting the best available program (column 1, line 64-column 2, line 20), which meets the limitation on autotuning without user interaction. Levitan discloses it would be advantageous to pass the time and stress of choice to the computer (column 1, lines 30-41). It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to modify Wugofski to have an automatic tuner without user interaction as taught by Levitan in order to provide the time and stress of choice of available programs to the computer.

Regarding claims 13, 22, 31, the limitations in claims 13, 22, 31 have been met in claim 4 rejections.

10. Claims 4, 13, 22, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Levitan (US Patent # 5,534,911).

Regarding claim 4, as disclosed in claim 1 rejection, Lawler disclose the list of favorites.

Lawler fails to disclose auto tuning without user interaction. Levitan discloses when a program is scheduled for transmission, the customer profile makes a choice before the program is transmitted by using a customer profile (column 2, lines 57-67). Levitan discloses an automatic personal channel (column 3, lines 36-59). Levitan discloses the personal channel has the best programs selected from a plurality of channel and recorded programs (column 3, line 60-column 4, line 3). Levitan discloses the automatic personal channel switches the channel selector at the proper time to the program (column 1, lines 45-54). Levitan discloses the automatic personal channel is always presenting the best available program (column 1, line 64-column 2, line 20), which meets the limitation on autotuning without user interaction. Levitan discloses it would be advantageous to pass the time and stress of choice to the computer (column 1, lines 30-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler to have an automatic tuner without user interaction as taught by Levitan in order to provide the time and stress of choice of available programs to the computer.

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Regarding claims 13, 22, 31, the limitations in claims 13, 22, 31 have been met in claim 4 rejections.

11. Claims 5, 14, 23, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler.

Regarding claim 5, Lawler discloses the system uses a server (column 10, lines 30-59).

Lawler fails to disclose the user being able to access their list from any of the client systems. The examiner takes Official Notice that using a user ID and password to access information on a client system delivered from a server is notoriously well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler to have allow a user to use a user ID and password on any client system to access information from the server in order to provide more convenience and mobility to the user.

Regarding claims 14, 23, 32, the limitations in claims 14, 23, 32 have been met in claim 5 rejections.

12. Claims 5, 14, 23, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski.

Regarding claim 5, Wugofski discloses the computer can be coupled to a local are network (LAN) (page 2, paragraph [0024]).

Wugofski fails to disclose accessing from any device. The examiner takes Official Notice that using a user ID and password to access information on a client system connected to a LAN is notoriously well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wugofski to have allow a user to use a user

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ID and password on any client system to access information connected to a LAN so the user can use any workstation thereby providing more convenience and mobility to the user.

Regarding claims 14, 23, 32, the limitations in claims 14, 23, 32 have been met in claim 5 rejections.

13. Claims 8, 17, 26, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wugofski in view of Zahavi (US Patent # 5,410,367).

Regarding claim 8, as disclosed in claim 1 rejection, Wugofski discloses a list of favorites.

Wugofski fails to disclose providing an alert if a program is about to be shown. Zahavi discloses the television program scheduler provides an indication if a television program is about to start (column 1, lines 35-50). Zahavi discloses there is a problem with the user missing the beginning of a program or an entire program (column 1, lines 27-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wugofski to have an alert if a program is about to start as taught by Zahavi so the user does not miss the beginning of or even an entire television program they had the intention of watching.

Regarding claims 17, 26, 35, the limitations in claims 17, 26, 35 have been met in claim 8 rejections.

14. Claims 8, 17, 26, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wehmeyer in view of Zahavi (US Patent # 5,410,367).

Regarding claim 8, as disclosed in claim 1 rejection, Wehmeyer discloses a list of favorites.

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Weymeyer fails to disclose providing an alert if a program is about to be shown. Zahavi discloses the television program scheduler provides an indication if a television program is about to start (column 1, lines 35-50). Zahavi discloses there is a problem with the user missing the beginning of a program or an entire program (column 1, lines 27-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wehmeyer to have an alert if a program is about to start as taught by Zahavi so the user does not miss the beginning of or even an entire television program they had the intention of watching.

Regarding claims 17, 26, 35, the limitations in claims 17, 26, 35 have been met in claim 8 rejections.

15. Claims 8, 17, 26, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Zahavi (US Patent # 5,410,367).

Regarding claim 8, as disclosed in claim 1 rejection, Lawler discloses a list of favorites.

Lawler fails to disclose providing an alert if a program is about to be shown. Zahavi discloses the television program scheduler provides an indication if a television program is about to start (column 1, lines 35-50). Zahavi discloses there is a problem with the user missing the beginning of a program or an entire program (column 1, lines 27-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lawler to have an alert if a program is about to start as taught by Zahavi so the user does not miss the beginning of or even an entire television program they had the intention of watching.

Regarding claims 17, 26, 35, the limitations in claims 17, 26, 35 have been met in claim 8 rejections.

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***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Chung whose telephone number is (703) 305-7362. The examiner can normally be reached on M-F, 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

JJC

  
ANDREW FAILE  
SUPERVISORY PATENT EXAMINER  
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